IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 63 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AMRUTBHAI M GARASIA - Petitioner(s)

Versus

STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :

MR NV GANDHI for Petitioner(s) : 1,
MR SIRAJ GORI,A GP for Respondent(s) : 1-3
MR BHUSHAN B OZA for Respondent(s) : 4 - 5.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 31/01/2006

ORAL JUDGMENT

1.Rule. Learned AGP Shri Gori waives service of notice of rule on behalf of respondent Nos.1 to 3 and learned advocate Shri Bhushan Oza who appears on caveat waives

service of rule on behalf of respondent Nos.4 & 5. At the joint request of the learned advocates appearing for the parties, the petition is taken for final disposal today.

2. In the present petition, the petitioner has challenged the order dated 13.12.2005 passed by the Secretary (Appeals), Revenue Department, Government of Gujarat. By the said order, revision application filed by respondent Nos.4 & 5 came to be allowed in part. The said proceedings were conducted pursuant to an order dated 5.7.2005 passed by this Court in Special Civil Application No.4182 of 2005. By the said order, proceedings were remanded to the Secretary. The petitioner has stated in the petition to the effect that the petitioner was never served with the notice of hearing of remanded proceedings. The petitioner was, therefore, not present before the Principal Secretary nor was his representative able to participate in the hearing. To this factual averment, no denial has been made by any of the respondents. It can thus be seen that the petitioner was not aware about the date of hearing before the Principal Secretary after the proceedings were remanded by this Court by the order dated 5.7.2005. I am, therefore, of the opinion that

the petitioner deserves an opportunity to make its submissions before the Secretary.

3. For the above purpose, the impugned order is set aside. The Secretary shall decide the revision application afresh. The parties request the Court that a particular date may be fixed for hearing the proceedings so that the date of hearing may not have to be individually communicated to all concerned. It is, therefore, provided that all parties shall remain present before the Secretary on 15th February, 2006. On that day, if it is not convenient to the Secretary to take up the matter for hearing, further date will be communicated to the parties who are present. Learned advocates for the petitioner as well as respondent Nos.4 & 5 state that their respective clients will not insist on communication of date of hearing of 15th February, 2006 before the Secretary. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)